



ILLINOIS COMMERCE COMMISSION

March 23, 2004

United Transportation Union – Illinois Legislative Board,
Petitioner

Vs.

Kansas City Southern Railroad,
Respondent

T04-0027

Complaint as to inadequate locker rooms, restrooms, washing facilities,
showers, dressing rooms and cleanliness and general maintenance at
railyard facilities at the St. Louis yard in East St. Louis, Illinois.

Mr. Joseph Szabo
State Legislative Board
United Transportation Union
8 S. Michigan Ave., Ste. 2006
Chicago, IL 60603

Dear Sir/Madam:

Receipt is acknowledged of the original and eight (8) copies of the Complaint filed March 22, 2004 in the above matter.

All future correspondence/pleadings should be filed with an original and two (2) copies and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce Commission, 527 E. Capitol Avenue, Springfield, IL 62701 or you may file electronically through E-Docket if you have an account. To apply for an account, please log on to www.icc.state.il.us and apply for an E-docket account.

A copy of the Complaint is being served on the Respondent.

Processing and Information Section

kl

cc: Mr. Victor A. Modeer, IDOT
Mr. Thomas Healey, KCS
C T Corporation, KCS
Mr. Timothy Lapp

ORIGINAL

FORMAL COMPLAINT

Illinois Commerce Commission
527 E. Capitol Avenue
Post Office Box 4905
Springfield, Illinois 62708
62701

RECEIVED
MAR 22 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

Regarding a complaint

For Commission use only.

by United Transportation Union-Illinois Legislative Board

(Person making the complaint)

against KANSAS CITY SOUTHERN RAILROAD

(Utility name)

Case 704-0027

File _____

--as to inadequate locker rooms, restrooms, washing facilities,
showers, dressing rooms and cleanliness and general
maintenance at railyard facilities at the St. Louis yard

(Reason for complaint)

in EAST ST. LOUIS Illinois.

TO THE ILLINOIS COMMERCE COMMISSION, SPRINGFIELD, ILLINOIS:

My mailing address is 8 S. Michigan Avenue, Suite 2006, Chicago, IL 60603

The service address that I am complaining about is Kansas City Southern Railroad Yard employee
facilities at the East St. Louis Railyard

My home telephone number is ()

Between 8:30 A.M. and 5:00 P.M. weekdays I can be reached at (312) 236 - 5353

Kansas City Southern Railroad (respondent) is a public utility and is subject to the pro-
(Full name of utility company)
visions of the Illinois Public Utilities Act.

In the space below, list the specific section of the law, Commission rule(s), or utility tariffs which you think are involved with your complaint.

320 ILCS 230, 92 Ill. Adm. Code Part 1545, 120 (a), (d) (3) (a) - (e), 110 (b) (3), (b) (4) and
(c) (2) and (c) (4), 140 (a), (b) and (c), 160, 210 (a) and 230 (a) and (c)

Have you contacted the Consumer Affairs Division of the Illinois Commerce Commission about this complaint?

☐ Yes

☐ No

Has your complaint filed with that office been closed?

☐ Yes

☐ No

cc201/07

DOCKETED

MAR 22 2004

Please state your complaint briefly. Number each of the paragraphs. Please include any specific time period and dollar amounts involved with your complaint. Use an extra sheet of paper, if needed.

See attached

Please clearly state what you want the Commission to do in this case.

See prayer for relief in attached.

Date: March 19, 2004

(Month, day, and year)

Complainant's signature

Joseph C. Szabo

If you will be represented by an attorney, please give the attorney's name, address, and telephone number.

Timothy C. Lapp

Hiskes, Dillner, O'Donnell, Marovich & Lapp, Ltd.

16231 Wausau Avenue, South Holland, IL 60473

(708) 333-1234

You need to file the original and three copies of this form with the Commission and also provide the Commission with one copy for each utility complained about (referred to as respondents).

VERIFICATION

A notary public must watch you fill out this part of the form.

I, JOSEPH C. SZABO, first being duly sworn, say that I have read the above petition and know what it says. The contents of this petition are true to the best of my knowledge.

Joseph C. Szabo
(Signature)

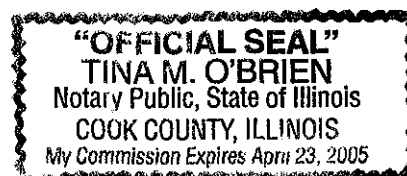
Subscribed and sworn/affirmed to before me this 19th day of March, 2004.

Tina M. O'Brien
Notary Public, Illinois

NOTE:

Failure to answer all of the questions on this form may result in this form being returned to you without processing. If you have questions, please call the counselor in the Consumer Affairs Division that handled your informal complaint.

cc201/07--p. 2



IN THE ILLINOIS COMMERCE COMMISSION
527 E. Capitol Avenue
Springfield, IL 62701

UNITED TRANSPORTATION UNION -)	
ILLINOIS LEGISLATIVE BOARD,)	
)	
against)	Case _____
)	File _____
KANSAS CITY SOUTHERN RAILROAD)	

NOW COMES the United Transportation Union - Illinois Legislative Board, by and through its attorneys, HISKES, DILLNER, O'DONNELL, MAROVICH & LAPP, LTD., and for its Complaint against Kansas City Southern Railroad, states as follows:

1. On November 11, 2003, the Illinois Commerce Commission, pursuant to Complaint by United Transportation Union, conducted an inspection at the Kansas City Southern Railroad East St. Louis rail switching yard shelter facility. The November 11, 2003 inspection indicated that there were deficiencies at the Kansas City Southern facility under 92 Ill. Adm. Code 1545 as to the locker rooms, restrooms and lunchroom. A copy of the November 11, 2003 inspection by the Illinois Commerce Commission is attached hereto and included herein as Exhibit "A".

2. That the Illinois Commerce Commission again inspected the facility on January 13, 2004 and that deficiencies were still noted at the facility regarding the locker room, restrooms and lunchroom. A copy of the January 13, 2004 inspection by the Illinois Commerce Commission is attached hereto and included herein as Exhibit "B".

3. That the United Transportation Union has attempted to work through the Illinois Commerce Commission in order to get voluntary compliance out of Kansas City Southern Railroad but as evidenced by the fact that two (2) inspections nearly two (2) months apart evidence continuing deficiencies at the facility, Kansas City Southern Railroad has not been interested in voluntary compliance.

4. That at the Kansas City Southern Railroad facility at East St. Louis, the following violations of Illinois Commerce Commission regulations have existed for more than four (4) months:

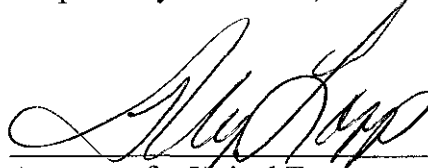
1. That in violation of 1545.110, the one (1) restroom for employees at the facility does not have adequate ventilation, adequate lighting or an adequate supply of toilet paper.
2. That in violation of 1545.120, the washing facility at the location is not kept in a sanitary condition, does not have hot water, does not have an adequate supply of paper towels, does not have waste receptacles, does not have soap provided for the employees and overall does not have adequate supplies provided for the employees.
3. That in violation of 1545.130, the one (1) shower for employees at the facility does not have an ample supply of hot water.
4. In violation of 1545.140, the locker room at the facility does not have the required square footage per locker nor does it have adequate tables and benches for the employees to utilize in changing, nor does it have adequate lighting and ventilation.
5. In violation of 1545.160, the locker room at the facility does not make any accommodation for women employees who use the changing area.
6. In violation of 1545.210, the lunchroom provided by the employer does not have adequate ventilation, heating, waste receptacles, nor is it kept in an overall sanitary condition.

7. In violation of 1545.230, the overall cleanliness and maintenance at the facility is lacking in that the cleaning is not done frequently enough, is not done thorough enough and the floors are not cleanly.
8. In violation of 820 ILCS 230, the Kansas City Southern Railroad has not provided employees a sanitary washroom in which to wash themselves in a proper manner. In addition, employer has not provided the employees with suitable and ample hot water necessary for cleansing.
9. In violation of 1545, the current facility is neither designed nor arranged in a manner to make its functionality and utilization convenient for the use of employees.

WHEREFORE, United Transportation Union, on behalf of its union members employed by Kansas City Southern Railroad, respectfully request that this Court grant all relief within the power of the Illinois Commerce Commission to rectify the conditions at the East St. Louis Railyard and in addition, that the Illinois Commerce Commission order that the Kansas City Southern Railroad construct a modern facility properly designed for each sex as a functional locker room, washroom, and shower room, that such facility meet or exceed the required minimum square footage requirements and ensure convenient usage, that the locker room facility be equipped with a bench running the length in-between each row of lockers to ensure convenient usage, and that a property lunch room be provided with necessary square footage to ensure its convenient usage and equipped with the appropriate furniture and refrigerator, and that Kansas City Southern further pay fines to the Illinois Commerce Commission for each and every day that the conditions at the East St. Louis Railyards have been in violation of Illinois Commerce Commission regulations and State law and that such fines be determined as of November 11, 2003 until the date that a final order is rendered

in this matter, and for such other and further relief as this Commission deems fair and reasonable.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Tim Lapp", written in black ink.

Attorneys for United Transportation Union -
Illinois Legislative Board

Timothy C. Lapp
HISKES, DILLNER, O'DONNELL,
MAROVICH & LAPP, LTD.
16231 Wausau Avenue
South Holland, IL 60473
(708) 333-1234
Atty. No. 80407

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION TRANSPORTATION DIVISION / RAIL SAFETY SECTION

Michael E. Stead

Rail Safety Program Administrator

December 12, 2003

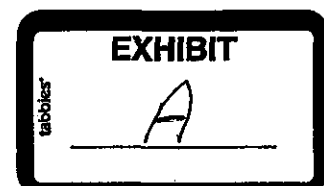
Mr. Gregory C. Haney
Trainmaster
Kansas City Southern (KCS)
1700 South 20th Street
P.O. Box 457
East St. Louis, IL 62202

Dear Mr. Haney:

This letter is a summary of findings following an inspection of shelter facilities for rail employees at the Kansas City Southern (KCS) East St. Louis rail switching yard, located in East St. Louis, St. Clair County, Illinois. The inspection was conducted following receipt of a complaint by this office that was submitted by the United Transportation Union. The inspection was conducted on November 11, 2003, and the following persons participated in the joint inspection: Bob Wagoner, Operating Practices Inspector representing this office, and yourself.

Results of the inspection indicate that the shelter facility at East St. Louis switching yard in East St. Louis is in poor condition and existing conditions do not meet the minimum requirements the 92 Illinois Administrative Code (IAC) Part 1545. It is my understanding that Mr. Wagoner has given you a copy of the 92 IAC Part 1545. Findings from the inspection of the locker room, lunchroom and restroom areas, located in East St. Louis yard in the new trailer crew facility next to the KCS roundhouse, are as follows:

- One toilet and washbasin located in the new facility where a minimum of eight employees works on one shift. (Note: Meets the requirements 92 IAC 1545.110 and 120, but if the numbers of employees increase the restroom would not meet the minimum requirements of 92 IAC 1545.)
- The locker room did not meet the 92 IAC Part 1545.140 for available floor space. 92 IAC 1545.140 requires eight square feet for the first 10 employees, and four square feet for each employee over the first ten. The East St. Louis crew facility also has two rooms, which contains lockers. Each room containing lockers will have to meet the square footage requirements. 92 IAC 1545.140 requires benches for employees to use in the locker room area. The present crew facility at East St. Louis doesn't meet that requirement.
- The East St. Louis crew facility does not have a restroom, locker room, or dressing room for the ladies employed at the switching yard. 92 IAC 1545 requires the carrier to have separate facilities for ladies on the property. The KCS will need to address this issue and bring the crew facility into compliance.
- No table or chairs located in the lunchroom area for employees to use while eating lunch. 92 IAC 1545.210 requires proper ventilation, waste receptacles, table and chairs.
- The showers did not meet the requirements of 92 IAC 1545.130. The showers did not have any hot water. The shower did have running water but only cold. (Note: We understand that the railroad has called a repair service to repair the hot water heater.)



It is our understanding that KCS contracts with a service company to clean the facility three times a week. The facility is new and employees have not started using the crew facility as of the date of the inspection. KCS may have to reevaluate the cleaning service of three times a week once employees start using the facility 24/7. 92 IAC 1545.20 states it is the rail carrier's responsibility to provide and maintain a sanitary shelter.

The old crew facility was torn down and replaced with trailers as new crew facility. KCS employees have not started using the new crew facility because the computer and phone lines have not been installed. It is my understanding that employees may start using the new crew facility, once communication lines and tables for the lunchroom are installed. The new trailers contain 72 lockers. The trailers are not large enough to meet the 92 IAC 1545 locker room square footage requirement and still provide a good lunchroom area for the employees to eat a meal. Please review 92 IAC Part 1545 to make sure the new crew facility meets all requirements of the administrative rule.

Please arrange for your company to make repairs/improvements to address the existing conditions noted by the inspection of the locker rooms, restroom, and crew lunchroom areas of the East St. Louis switching crew facility as soon as possible. Provide this office with a written schedule of those repairs/improvements within the next 14 business days. Please refer to these requirements and include local union representatives when planning the necessary repairs/improvements for your company's employees working at the East St. Louis Switching Crew facility. Mr. Wagoner will schedule a follow-up inspection of the facility on January 6, 2004.

This concludes our summary of the November 11th inspection. If you have any questions, please contact Bob Wagoner, Operating Practices Inspector, at (309) 462-5556.

Very truly yours,



Michael E. Stead,
Rail Safety Program Administrator

cc: Joe Szabo, UTU
C. Roughton, UTU
D. Eddy, UTU
R. Gore, UTU
R. Karraker, UTU
Taulton Daney JR. , KCS

RW

STATE OF ILLINOIS



ILLINOIS COMMERCE COMMISSION TRANSPORTATION DIVISION / RAIL SAFETY SECTION

Michael E. Stead

Rail Safety Program Administrator

January 23, 2004

Mr. Gregory C. Haney
Trainmaster
Kansas City Southern Railway Company
1700 South 20th Street
East St. Louis, IL 62207-1916

R03-256

Dear Mr. Haney:

This letter is a summary of findings from the follow-up inspection of shelter facilities for rail employees at the Kansas City Southern (KCS) East St. Louis rail-switching yard, located in East St. Louis, St. Clair County, Illinois. The follow up inspection was conducted on January 13, 2004, and the following persons participated John Burner, United Transportation Union (UTU), Robert Gore, UTU, Don Eddy, UTU, Ed Way, Brotherhood of Locomotive Engineers, Bob Wagoner, Operating Practices Inspector, representing this office, and yourself.

Results of the inspection indicate that the shelter facility at East St. Louis switching yard in East St. Louis still does not meet the requirements of 92 Illinois Administrative Code (IAC) Part 1545. The following exceptions were taken and outlined below. The railroad is required to take steps to bring the excepted areas of the facility into compliance with 92 IAC 1545.

Findings from the inspection of the locker room, lunchroom and restroom areas, located in East St. Louis yard in the new trailer crew facility next to the KCS roundhouse, are as follows:

- The locker room did not meet the requirements of 92 IAC 1545.140 for available floor space. The rule requires eight square feet (8 ft²) for the first 10 employees and four square feet (4 ft²) for each employee over the first ten. The East St. Louis crew facility also has two rooms that contain lockers. Each room containing lockers will have to meet the square footage requirements, too. 92 IAC 1545.140 also requires benches for employees to use in the locker room area. The present crew facility at East St. Louis doesn't meet that requirement. Mr. Wagoner took measurements of the building, and found the KCS crew facility had a total of 200 square feet (200 ft²) of floor space available for employees. 92 IAC Part 1545 requires 344 square feet (344 ft²) of floor space be available. In order to comply with the rule, the East St. Louis must have 344 square feet (344 ft²) of floor space for the current number of employees using the facility.
- The East St. Louis crew facility does not have a restroom, locker room, or dressing room for the female employees at the switching yard. 92 IAC 1545 requires the carrier to have separate male and female facilities on the property. The KCS will need to address this issue and bring the crew facility into compliance.
- The lunchroom area is not equipped with tables or chairs for employees to use while eating lunch. 92 IAC 1545.210 requires proper ventilation, waste receptacles, table and chairs.
- The toilet did not flush properly during the inspection.
- There was a water line leaking into the hallway of the locker room area during the inspection. This also needs to be repaired.

EXHIBIT

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- It is our understanding that KCS has a cleaning service starting Wednesday, January 14, 2003. The cleaning service is contracted to clean the facility three times a week. KCS may have to re-evaluate the cleaning service of three times a week once employees start using the facility 24/7. 92 IAC 1545.20 requires the rail carrier to provide and maintain a sanitary shelter.
- The new trailers contain 72 lockers. The trailers are not large enough to meet the locker room square footage and still provide a good lunchroom area for the employees.

Mr. Wagoner met with Assistant Superintendent Taulton Dancy after the inspection of the KCS locker room crew facility. Mr. Wagoner explained the exceptions taken during the inspection. Mr. Wagoner told Mr. Dancy that he would conduct another inspection within 60 days to see if the KCS has come into compliance with 92 IAC 1545.

Please arrange for your company to make repairs/improvements to address the existing conditions noted by the inspection of the locker rooms, restroom, and crew lunchroom areas of the East St. Louis switching crew facility. Provide this office with a written schedule of those repairs/improvements within the next 14 business days. Please refer to 92 IAC 1545 requirements and include local union representatives when planning the necessary repairs/improvements for your company's employees working at the East St. Louis Switching Crew facility. Mr. Wagoner will schedule a follow-up inspection of the East St. Louis switching crew facility in April, 2004.

This concludes our summary of the November 11th inspection. If you have any questions, please contact Bob Wagoner, Operating Practices Inspector, at (309) 462-5556.

Very truly yours,



Michael E. Stead,
Rail Safety Program Administrator

Enclosure

cc: Joe Szabo, UTU
John Burner, UTU
D. Eddy, UTU
R. Gore, UTU
Ed Way, BLE
Taulton Dancy, KCS
KCS Law Department, KCS

RW